

**MINUTES OF THE  
ADMINISTRATIVE RULES REVIEW COMMITTEE**  
Monday, December 8, 2003 – 9:00 a.m. – Room 129 State Capitol

**Members Present:**

Sen. Howard A. Stephenson, Senate Chair  
Rep. David Ure, House Chair  
Sen. Ed P. Mayne  
Sen. Michael G. Waddoups  
Rep. Judy Ann Buffmire  
Rep. Greg J. Curtis  
Rep. James R. Gowans  
Rep. Merlynn T. Newbold

**Members Absent:**

Sen. Mike Dmitrich  
President Al Mansell

**Staff Present:**

Mr. Arthur L. Hunsaker, Policy Analyst  
Ms. Susan Creager Allred, Associate General Counsel  
Ms. Cassandra N. Bauman, Legislative Secretary

**Note:** A list of others present and a copy of materials can be found at [www.le.utah.gov](http://www.le.utah.gov) or by contacting the committee secretary at 538-1032. A recording of the meeting may be available by contacting the Office of Legislative Research and General Counsel.

**1. Committee Business**

Chair Stephenson called the meeting to order at 9:23 a.m. Sen. Dmitrich was excused from the meeting.

**MOTION:** Rep. Curtis moved to approve the minutes of the November 25, 2003 meeting. The motion passed unanimously.

**2. Update: Utah Scenic Byway Committee Legislation**

Mr. Hunsaker briefed the Committee on the legislation adopted by the Transportation Interim Committee. He noted that the Administrative Rules Review Committee referred the issue to the Transportation Interim Committee.

**3. R884-24P-24 Form of Notice of Property Valuation and Tax Changes Pursuant to Utah Code Ann. Sections 59-2-918 through 59-2-924**

Chair Stephenson indicated that the Utah Supreme Court case of *Husky Oil Company of Delaware v. Utah State Tax Commission* provided that once a state agency interpreted a statute and implemented it by rule for a lengthy period of time, a substantive change in interpretation should not be made unless augmented by a court decision or legislative action. He indicated that R884-24P-24 has been in place for just over 10 years and that recent changes to the rule are not justified by a statutory change, according to the Husky case.

Mr. Bruce Johnson, Commissioner, Utah State Tax Commission, explained the difference between the existing rule and the proposed rule, indicating that the Tax Commission had made a distinction between locally accessed and centrally accessed taxes, whereas statute does not make the distinction. The rule was amended to eliminate the distinction in terms of equalization adjustments. He indicated that the law firm of Parsons, Behle, & Latimer sent a letter to the Tax Commission indicating its belief that the Husky Decision does not apply to this rule change. He also indicated that the letter from Holme, Roberts, &

Owen, as distributed prior to the meeting, states that the shortest time frame which the courts have determined to be long-standing is 20 years.

Committee discussion followed.

Rep. Curtis expressed concern that the Tax Commission made a policy decision in its proposed rule change that should have been brought to the Legislature for clarification in statute.

**MOTION:** Rep. Curtis moved to sunset R884-24P-24(L)(1) and (2), pending approval of the proposed rule by the Commission. The motion passed with Sen. Waddoups voting in opposition.

#### **4. R27-4 Vehicle Replacement and Expansion of State Fleet**

Rep. Ure introduced the issue.

Mr. Steve Saltzgeber, Director, Division of Fleet Operations, Department of Administrative Services, explained the major change in the rule, indicating that state agencies can now reclaim a vehicle within a year without repaying a deposit fee. He answered other questions posed by Rep. Ure.

#### **5. State Report: Response of Agencies Regarding Bills Passed in the 2003 General Session that Impact their Rulemaking Authority**

Mr. Hunsaker distributed and reviewed "Survey of 2003 Legislation Affecting Rulemaking Authority," as prepared by Cassandra Bauman. He and Ms. Bauman responded to questions.

#### **6. Other Items/Adjourn**

Rep. Curtis updated the Committee on the progress of the issue regarding the scope of practice for chiropractors as discussed at the November 25, 2003 meeting. He said his understanding is that the Speaker is not ready to request an attorney general opinion on the issue at this time. Sen. Mayne indicated that he would like to bring the issue back at the Committee's next meeting, whether an attorney general's opinion has been issued or not.

The next meeting is tentatively scheduled for Wednesday, January 7, 2004 at 9:00 a.m.

**MOTION:** Rep. Gowans moved to adjourn the meeting. The motion passed unanimously.

Chair Stephenson adjourned the meeting at 11:17 a.m.